

Message Text

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FM AMEMBASSY BERN

TO SECSTATE WASHDC PRIORITY 767

C O N F I D E N T I A L BERN 2307

E.O. 11652: GDS

TAGS: CFED (JUSTICE INVESTIGATION OF FIRST LIBERTY FUND CASE
SZ, GW

SUBJECT: JUDICIAL ASSISTANCE: JUSTICE REQUEST FOR SWISS BANK
WITNESSES IN FIRST LIBERTY FUND CASE

REF: A) STATE 105632; B) STATE 126586

1. REF A PROVIDED FISCAL DATA TO ARRANGE TICKETING FOR
PROSPECTIVE WITNESSES THEODORE ARNOLD, BRUCE RAPPAPORT
AND MULLER IN CASE CAPTIONED U.S. VS. NIKOLORIC
ET AL. CASE APPARENTLY SAME AS ONE SOMETIMES IDENTIFIED
AS FIRST LIBERTY FUND CASE (REF B AND PREVIOUS).

2. EMBASSY HAS CONTACTED ALL THREE PROSPECTIVE WITNESSES.
AT THIS TIME ONLY RPT ONLY REINHARD MULLER IS WILLING TO TRAVEL
TO U.S. TO TESTIFY. ARNOLD AND RAPPAPORT WILL NOT RPT
NOT GIVE TESTIMONY IN U.S. RAPPAPORT INFORMED ASST. U.S.
ATTORNEY ULLMAN OF HIS DECISION BY LETTER DATED MAY 16.
ARNOLD HAS WRITTEN TO ULLMAN ON JUNE 2 EXPLANA-
TORY MEMOS.

3. AS DEPT. IS AWARE EMBASSY HAS SPENT CONSIDERABLE TIME,
INITIALLY IN PROCESSING LETTERS ROGATORY AND SUBSE-
QUENTLY IN LATE 1974, EARLY 1975 IN OBTAINING AGREEMENT
FROM THESE WITNESSES TO TRAVEL TO U.S. TO GIVE TESTIMONY
IN THE FIRST LIBERTY FUND CASE. (ARRANGEMENTS WERE MADE
THROUGH FJDP AS REQUIRED). IN INTERIM ULLMAN HAS BEEN
IN DIRECT COMMUNICATIONS WITH WITNESSES THEREBY, IN EMBASSY'S
OPINION, OPENING A CHANNEL WHICH PRODUCED PRESENT
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NEGATIVE RESPONSE. EMBASSY PARTICULARLY DOES NOT UNDER-

STAND ULLMAN'S REQUEST IN APRIL 28 LETTER TO ARNOLD THAT LATTER BRING WITH HIM "THE ORIGINALS OF ALL DOCUMENTS RELATING TO YOUR BANK'S DEALINGS WITH FIRST LIBERTY FUND, THE ABOVE NAMED INDIVIDUALS, NORTHERN U.S. INVESTORS OR JVURGEN AND VOLKER REIBLE." THIS REQUEST IS ENTIRELY INCONSISTENT WITH BASIC JUDICIAL ASSISTANCE THAT WE PROCESSED THROUGH FDIS FOR WITNESSES ARNOLD, MULLER AND RAPPAPORT I.E. THAT WITNESSES WERE REQUIRED IN U.S. TO AUTHENTICATE BANK DOCUMENTS PROPERLY OBTAINED THROUGH LETTERS ROGATORY IN 1973. (STATE 180517 AUG. 17, 1974). EMBASSY CONSIDERS THAT ULLMAN'S UNILATERAL REQUEST FOR DOCUMENTS HAS CAUSED ARNOLD TO NOW REFUSE TO PARTICIPATE IN THIS PROSECUTION.

4. IN ACCORDANCE WITH REF B WE ARE IN COMMUNICATION WITH FDIS REGARDING NICOLAUS FEDI AND OTHERS GIVING TESTIMONY BEFORE A CONSULAR OFFICE IN A NEIGHBORING COUNTRY. WE ARE NOT OPTIMISTIC THAT AGREEMENT WILL BE OBTAINED. EMBASSY WILL REPORT FURTHER IN THIS REGARD.

5. EMBASSY IS SENSITIVE TO THE IMPORTANCE ATTACHED TO SUCCESSFUL PROSECUTION OF FIRST LIBERTY FUND CASE, BUT IN VIEW OF IMMINENT TRIAL DATE AND BECAUSE OF DEVELOPMENTS REPORTED ABOVE, WE RELUCTANTLY CONCLUDE THAT CHANCES OF OBTAINING ADMISSABLE TESTIMONY FROM ANYONE OTHER THAN REINHARD MULLER ARE VERY SLIGHT.
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